

Senate Bill No. 1285

CHAPTER 790

An act to add Section 23826.13 to the Business and Professions Code, relating to alcoholic beverages.

[Approved by Governor September 28, 2016. Filed with
Secretary of State September 28, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1285, Leno. Alcoholic beverages: licenses.

The Alcoholic Beverage Control Act, administered by the Department of Alcoholic Beverage Control, regulates the sale and distribution of alcoholic beverages and the granting of licenses for the manufacture, distribution, and sale of alcoholic beverages within the state. The act also provides for a limitation on the amount of on-sale general licenses that may be issued by the department based on the population of the county in which the licensed premises are located, as provided. Existing law also provides for various annual fees for the issuance of alcoholic beverage licenses, depending on the type of license issued.

This bill would, beginning January 1, 2017, provide an exception to the license limitation for a county of the 6th class, as specified, for 5 new original neighborhood-restricted special on-sale general licenses for premises located within specified census tracts in that county, subject to specified requirements. This bill would impose an original fee and annual renewal fee for the license, which would be deposited in the Alcohol Beverage Control Fund, and would require an applicant for this license to submit a specified application, submitted under the penalty of perjury, to the Department of Alcoholic Beverage Control. This bill would also require the applicant to submit a signed verification by the local government in which the licensed premises would be located stating that the applicant has completed certain preapplication requirements.

By requiring an applicant to submit an application under penalty of perjury, thereby expanding the crime of perjury, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason and that no reimbursement shall be made pursuant to those statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

This bill would make legislative findings and declarations as to the necessity of a special statute for the City and County of San Francisco.

The people of the State of California do enact as follows:

SECTION 1. Section 23826.13 is added to the Business and Professions Code, to read:

23826.13. (a) Notwithstanding any other provision of this chapter, in any county of the sixth class, the department may issue no more than a total of five new original neighborhood-restricted special on-sale general licenses to premises located in any of the census tracts listed in subdivision (b) beginning on January 1, 2017.

(b) To qualify for a license issued pursuant to this section, the premises for which the license would apply shall be located within one of the following United States Bureau of Census census tracts located within the City and County of San Francisco:

(1) United States Bureau of the Census census tracts 612000, 232000, 234000, 233000, or 230030.

(2) United States Bureau of the Census census tracts 258000 or 257020.

(3) United States Bureau of the Census census tract 264030.

(4) United States Bureau of the Census census tracts 255000, 256000, 260020, 260010, 260040, 261000, or 263010.

(5) United States Bureau of the Census census tracts 309000, 310000, or 312010.

(6) United States Bureau of the Census census tracts 330000, 329010, 328010, 353000, or 354000.

(7) United States Bureau of the Census census tracts 328020, 329020, 351000, or 352010.

(c) In issuing the licenses pursuant to this section, the department shall follow the procedure set forth in Section 23961. A license shall not be issued pursuant to this section to an applicant until any existing on-sale licenses issued to the applicant for the same premises are canceled.

(d) (1) A person who currently holds an on-sale general license for a premises shall not apply for a license issued pursuant to this section for that licensed premises.

(2) In addition to the other requirements of this section, an application for a neighborhood-restricted on-sale general license shall be subject to all the requirements that apply to an on-sale general license for a bona fide eating place.

(3) Prior to submitting an application for a license issued pursuant to this section, the applicant shall conduct a minimum of one preapplication meeting to discuss the application with neighbors and members of the community within the census tract in which the premises are located.

(A) The applicant shall hold the meeting either on the premises or at an alternate location within a one-mile radius of the premises.

(B) The applicant shall mail notification of the preapplication meeting to all of the following individuals and organizations at least 14 calendar days before the meeting:

(i) Each resident within a 500-foot radius of the premises for which the license is to be issued.

(ii) Any relevant neighborhood associations for the neighborhood in which the premises is located, as identified on a list maintained by the Planning Department of the City and County of San Francisco.

(iii) The Chief of Police for the San Francisco Police Department.

(C) Applicants for a neighborhood-restricted special on-sale general license shall submit, on a form provided by the department, signed verification by the local government body that states the applicant has completed the preapplication meeting pursuant to this section.

(e) (1) A license issued pursuant to this section shall not be transferred between counties.

(2) A license issued pursuant to this section shall not be transferred to any other premises. This provision shall not apply to any licensee whose premises have been destroyed as a result of fire or any act of God or other force beyond the control of the licensee, for whom the provisions of Section 24081 shall apply.

(3) A license issued pursuant to this section shall not be transferred to any person, partnership, limited partnership, limited liability company, or corporation. This provision shall not apply to licenses transferred under Section 24071, 24071.1, or 24071.2.

(f) Upon the cancellation of any license issued pursuant to this section, the license shall be returned to the department for issuance to a new applicant following the procedure set forth in Section 23961 and the provisions of this section.

(g) A person that holds a neighborhood-restricted special on-sale general license issued pursuant to this section shall not exchange his or her license for an on-sale license for public premises.

(h) Except as specified herein, a neighborhood-restricted special on-sale general license may exercise all of the privileges, and is subject to all the restrictions, of an on-sale general license for a bona fide eating place.

(i) A neighborhood-restricted special on-sale general license issued pursuant to this section shall not, with respect to beer and wine, authorize the exercise of the rights and privileges granted by an off-sale beer and wine license.

(j) (1) The original and annual fees, and any additional fees and surcharges, shall be the same as those imposed upon an on-sale general license for a bona fide eating place.

(2) All moneys collected from the fees imposed pursuant to this section shall be deposited in the Alcohol Beverage Control Fund, pursuant to Section 25761.

(k) The department shall adopt rules and regulations to enforce the provisions of this section.

SEC. 2. The Legislature finds and declares that a special law is necessary and that a general law cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique distribution and market conditions of liquor licenses in the City and County of San Francisco, that apply only to the City and County of San Francisco.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

No reimbursement shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.